

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NEBRASKA

JEFFREY L. ANSON,

Plaintiff,

v.

H.E.L.P. FOUNDATION OF OMAHA,
INC., and RANI SATI, Corporation,

Defendants.

8:07CV322

MEMORANDUM AND ORDER

This matter is before the court on defendant H.E.L.P's motion for summary judgment, Filing No.16. Plaintiff filed his complaint in this case alleging violations of Title VII, 42 U.S.C. § 2000e. Thereafter, the defendant filed a motion for summary judgment, Filing No. 15, alleging it had less than fifteen employees, and therefore, it was not covered under Title VII. The court granted leave to the plaintiff to file a response to the motion for summary judgment until March 18, 2008. Filing No. 36. The plaintiff requested permission to file an amended complaint, Filing No. 19, and the court granted such leave, Filing No. 44. The plaintiff filed its amended complaint. Filing No. 45. In his amended complaint, plaintiff contends that the defendants work in concert in such a way as to meet the requirement of fifteen employees as required under Title VII. This issue was not addressed in defendant's motion for summary judgment or supporting brief, as it had not been raised by the plaintiff at that time. Filing Nos. 16 and 17.

After a review of the record and in particular the amended complaint, the court finds it will deny defendant's motion for summary judgment at this time as moot. The defendants are free to file a new motion for summary judgment addressing plaintiff's amended

complaint if they desire to do so. The court will give the defendants sixty days from the date of this order to file said motion. If additional time is needed, the defendants shall file a motion with the court.

THEREFORE, IT IS ORDERED that defendant's motion for summary judgment, Filing No. 16, is denied as moot. However, the defendants are free to file a motion for summary judgment with regard to the amended complaint within sixty days of the date of this order.

DATED this 22nd day of February, 2008.

BY THE COURT:

s/ Joseph F. Bataillon
Chief United States District Judge